

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 04, 2016

The Council of the City of San José convened in Regular Session at 9:04 a.m. in the Council Chamber at City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:12 a.m. to a Closed Session in Room W133 (A) Public Employment/Public Employee Evaluation Pursuant to Government Code Section 54957: Title: City Clerk. Name: Toni J. Taber. (B) to confer with Legal Counsel pursuant to Government Code 54956.9 subsection (c) pertaining to anticipated litigation of significant exposure (Claim Filed): In re: Claim of Morales. City Department: Public Works. (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation: (1) In re: Claim of Chayrez. Amount of Money or Other Relief Sought: Administrative Appeal. (2) City of San José v. City of Santa Clara. Names of Parties Involved: City of San José, City of Santa Clara. Court: Superior Court of California, County of Santa Clara; Case No: 16-CV-298317. Amount of Money or Other Relief Sought: Damages According to Proof. (3) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (4) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-

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CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (5) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (6) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (7) ABMEI v. City, et al. Names of Parties Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No: UPC SF 1358 M; Amount of Money or Other Relief Sought: Damages according to proof. (8) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case No: 1-12-CV-233660, H040979, H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (9) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case No: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-226570, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-226574, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of the State of California for County of Santa Clara, Sixth District Court of Appeal; Case: 1-12-CV-225928, H040979, H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (13) People of the State of California, et al. v. City of San José, et al. Names of Parties Involved: The People of the State of California ex rel, San José

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Police Officers' Association, City of San José, City Council of San José; Court: Superior Court of the State of California for the County of Santa Clara; Case No: 1-13-CV-245503; Amount of Money or Other Relief Sought: Verified Complaint in Quo Warranto. (14) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court. Names of Parties Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, A California Non-Profit Corporation, Proposed Intervenor, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, The People of the State of California ex rel, San José Police Officers' Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or in the alternative, supersedes or other appropriate relief. (15) San José Retired Employees Association, et al V. City of San José, et al. Names of Parties Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, The Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-2680085; Amount of Money or Other Relief Sought: Change to City Medical Plan. (16) SJJC Aviation Services, LLC v. City of San José, et al. Names of Parties Involved: SJJC Aviation Services, LLC, City of San José, City Council of the City of San José and Does 1-25; Court: Superior Court of California, County of Santa Clara Sixth Appellate District, San José Division; Case No: 1-13CV246057 H041946; Amount of Money or Other Relief Sought: Damages According to Proof. (17) Shahrivar, Farid v. City, et al. Names of Parties Involved: Farid Shahrivar, City of San José, a municipality, Rodney Rapson, an individual, David Sykes, an individual, Harry Frietas, an individual, Katherine Jensen, an individual, David Printy, an individual, Danny Tsao, an individual, Katrina Allen, an individual, Doug Baker, an individual, Alex Gurza, an individual, Saran Nunes, an individual, Les White, an individual, Allen Demers, an individual, Rajiv Das, an individual, Steve Pagan, an individual, Angela Chen, an individual, Mark Danaj, an individual, Robert Fabela, an individual, Susan Lacy, an individual and Does 1-45; Court: United States District Court, Oakland Division; Case No: CV-10-01029 PSG; Amount of Money or Other Relief Sought: Damages according to proof. (18) Great Oaks Water, Inc., v. City, et al. Names of Parties Involved: Great Oaks Water Company, Inc., John W.S. Roeder, Betty B. Roeder, Betty B. Roeder Trust A and William C. Miller, Jr. and Betty B. Roeder, Trustees of the Walter S. Roeder Trust B, the City of San José, the San José Redevelopment Agency, Southbay Water Recycling, Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-04-CV012008; Amount of Money or Other Relief Sought: Damages According to Proof. (19) Sharks Sports & Entertainment LLC v. City of San José, et al. Names of Parties Involved: Sharks Sports & Entertainment LLC, City of San José, San José City Council and Does 1-10; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction. Case No: 16 CV296834; Amount of Money or Other Relief Sought: Damages According to Proof. (20) County of Alameda, et al. v. AMBAC Financial, et al. Names of Parties Involved: County of Alameda, City and County of San Francisco, City of Los Angeles, Los Angeles Department of Water and Power, Los Angeles World Airports, City of

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Oakland, City of Richmond, Redwood City, East Bay Municipal Utility District, City of Sacramento, Sacramento Suburban Water District, Sacramento Municipal Utility District, City of San José, City of Stockton, The Redevelopment Agency of the City of Stockton, The Public Financing Authority of the City of Stockton, County of Tulare, The Regents of the University of California, The Redevelopment Agency of the City of San José, AMBAC Financial Group, Inc., AMBAC Assurance Corporation, MBIA, Inc., MBIA Insurance Corporation, MBIA Insurance Corp. of Illinois, aka National Public Finance Guarantee Corporation, Syncora Guarantee, Inc., fka XL Capital Assurance, Inc., Financial Guaranty Insurance Company, Financial Security Assurance, Inc., CIFG Assurance North America, Inc., Assured Guaranty Corp., Jason Kissane, Does 1-50; Court: Superior Court of California, In and for the City and County of San Francisco; Case No: CJC-08-04555; Amount of Money or Other Relief Sought: Damages According to Proof. (21) RDA/City vs. Bank of America, N.A., et al. Names of Parties Involved: City of San José, The San José Redevelopment Agency, Bank of America, N.A. Merrill Lynch & Co., Inc., UBS AG, UBS Financial Services, Inc., UBS Securities, LLC, MBIA, Inc., Citibank, N.A., Citigroup Financial Products Inc., Citigroup Global Markets Holdings Inc., Morgan Stanley, Rabobank Group, Bayerische, Landesbank Gironzentrale, Piper Jaffray & Co., Societe Generale SA, Financial Security Assurance, Inc., Assured Guaranty US Holdings Inc., Dexia S.A. National Westminster Bank, PLC, Natixis Funding Corp., Natixis S.A., the Goldman Sachs Group, Inc., Goldman Sachs Mitsui Marine Derivative Products, LP, Goldman Sachs Bank USA, CDR Financial Products, Winters and Co., Advisors, LLC, George K. Baum & Co., Sound Capital Management, Inc., Investment Management Advisory Group, Inc., First Southwest Company, PFM Investment, LLC, PFM Asset Management LLC; Court: U.S. District Court, Northern District of California; Case No: CV 10 2199; Amount of Money or Other Relief Sought: Damages According to Proof. (22) Seibert v. City of San José. Names of Parties Involved: Grant Seibert, City of San José, San José Civil Service Commission, Debra Figone as San José City Manager, Alex Gurza as San José Director of Employee Relations, William McDonald as Fire Chief for the San José Fire Department, Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 1-11CV 204096; Amount of Money or Other Relief Sought: Damages According to Proof. (23) Debra Ward and Patricia Tapia, v. City, Fire Chief William McDonald, et al. Names of Parties Involved: Debra Ward, Patricia Tapia, City of San José, Fire Chief William McDonald; Court: Superior Court of California, County of Santa Clara; Case No: 1-11-CV203561; Amount of Money or Other Relief Sought: Damages According to Proof. (24) Ivan Lee v. City of San José. Names of Parties Involved: Ivan Lee, City of San José, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-15-CV-287181; Amount of Money or Other Relief Sought: Damages According to Proof. (25) Anderson, et al v. City of San José and San José City Council. Names of Parties Involved: Sarah Anderson, Joana Cruz, Urban Habitat Program and Housing California, City of San José, a governmental entity, San José City Council and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 16-CV297950; Amount of Money or Other Relief Sought: Damages According to Proof. (26) Cali-Arioto, LLC v. City of San José. Names of Parties Involved: Cali-Arioto, LLC, the City of San José and Does 1-10; Court: Superior Court of California, County of Santa Clara; Case No: 16-CV-

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296549; Amount of Money or Other Relief Sought: Damages According to Proof. (27) Cu Thanh Nguyen v. City of San José. Names of Parties Involved: Cu Thank Nguyen, City of San José. Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-268209; Amount of Money or Other Relief Sought: Damages According to Proof. (28) Berg & Berg Associates, LLC v. City, et al. Names of Parties Involved: Berg & Berg Enterprises, LLC, City of San José, San José City Council and Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 1-07-CV-091955; Amount of Money or Other Relief Sought: Damages According to Proof. (29) Stand for San José, et al. v. City, et al. Names of Parties Involved: Stand for San José and Eileen Hannan, City of San José, City Council of the City of San José, Redevelopment Agency of the City of San José, Diridon Development Authority; Court: Superior Court of California, County of Santa Clara; Case: 1-11-CV-214196; Amount of Money or Other Relief Sought: Injunctive relief. (30) Stand for San José, et al. v. City et al. Names of Parties Involved: Stand for San José, Eileen Hannan, Michelle Brenot, Robert Brown, Robert Shields, City of San José, City Council of the City of San José, Successor Agency to the Redevelopment Agency of the City of San José, Successor Agency Oversight Board, Diridon Development Authority, Does 1-10, inclusive, Athletics Investment Group, LLC, Does 1-20, inclusive; Court: Superior Court of California, In and For the County of Santa Clara; Case No: 1-13-CV-250372; Amount of Money or Other Relief Sought: Writ of Mandamus and Complaint for Declaratory Relief and Injunction Relief and for Attorney's fees. (31) Friends of the Willow Glen Trestle v. City of San José, et al. Names of Parties Involved: Friends of the Willow Glen Trestle, an unincorporated association, City of San José, City Council of the City of San José; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-14-CV-260439; Amount of Money or Other Relief Sought: Damages According to Proof. (32) Alemayehu v. City of San José. Names of Parties Involved: Dawit Alemayehu, the City of San José, the City of San José Police Department, a municipal corporation, Officer Jorge Garibay #4218, a sworn San José Police Officer and as an individual, Sergeant D. Tran Badge #3268, a San José Police Officer and as an individual and Does 1-40; Court: U.S. District Court, Northern Division. Court: U.S. District Court, Northern Division. Case No: C14-1738 EJD; Amount of Money or Other Relief Sought: Damages According to Proof. (33) David Armstrong v. City of San José, Alexander Keller, et al. Names of Parties Involved: David Armstrong, City of San José, San José Police Officer Alexander Keller, San José Police Officer Baldwin, San José Police Officer Zarate, San José Police Officer Bortolotti; Court: U.S. District Court, Northern District, San José Division. Case No: 16-CV-029838-EJD; Amount of Money or Other Relief Sought: Damages According to Proof. (34) Binkovich v. Barthelmy, et al. Names of Parties Involved: Aleksandr Binkovich, City of San José, Officer Barthelmy, Officer Grondahl, Officer Panighetti, Officer Craig, Officer Jacob and Officer Bollendorf; Court: U.S. District Court, Northern District, San José Division. Case No: C 11-03774 PSG; Amount of Money or Other Relief Sought: Damages According to Proof. (35) Burt v. City of San José. Names of Parties Involved: Shauncey Burt, City of San José, San José Police Department, unidentified San José Police Officers numbered 1-6 and Does 7-50. Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction. Case No. 1-15-CV-280121; Amount of Money or Other Relief Sought: Damages According to Proof.

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(36) Chavez-Alvarez v. City of San José. Names of Parties Involved: Rafael Chavez-Alvarez, San José Police Department; Court: U.S. District Court, Northern District, San José Division. (37) Correa v. City of San José, et al. Names of Parties Involved: Thomas Correa, City of San José, San José Police Department (SJPd), Michael Sullivan, individually and in his official capacity as Lieutenant, SJPd, Kimberly Hudson, individually and in her official capacity as Sergeant, SJPd. Court: U.S. District Court, San José Division. Case No: CV12-05436 HRL. Amount of Money or Other Relief Sought: Damages According to Proof. (38) Michael Fujikawa v. City, Chief Chris Moore. Names of Parties Involved: Michael Fujikawa, City of San José, Police Chief Chris Moore, Officers Payne (Badge No. 3971), Officer Pfiefer (Badge No. 3951), Officer Jeffrey (Badge No. 3926), Officer Burke (Badge No. 3949), Officer Akery (Badge No. 3495) and Does 1-50. Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-219612; Amount of Money or Other Relief Sought: Damages According to Proof. (39) Gonzales v. City of San José, et al. Names of Parties Involved: Mary Lou Gonzales, City of San José, as a municipal corporation, SJPd Detective Delacruz in her official and individual capacity, SJPd Homicide Detective Jamie (last name unknown) in his individual and official capacity, SJPd Officers Doe 1 – Doe 7 in their individual and official capacities, SJPd Officers and Detectives and Employees Does 8-50 in their individual and official capacities. Court: U.S. District Court, Northern District of California. Case No: 13-CV-00695-BLF (PSG); Amount of Money or Other Relief Sought: Damages According to Proof. (40) Juan Hernandez, et al. v. City of San José, et al. Names of Parties Involved: Juan Hernandez, an individual, Nathan Velasquez, an individual, Frank Velasquez, an individual, Rachel Casey, an individual, Mark Doering, an individual, Dustin Haines-Scrodin, an individual, Andrew Zambetti, an individual, Christina Wong, an individual, Craig Parsons, an individual, I.P., a minor individual, on behalf of themselves and all others similarly situated, City of San José, a municipal Corporation, Sam Liccardo, sued in his individual capacity, Anthony Yi, an individual, H.A., a minor individual, S.M., a minor individual and Does 1-38. Court: United States District Court, Northern District of California, San José Division; Case No: 5:16-CV-03957 LHK; Amount of Money or Other Relief Sought: Damages according to proof. (41) Luis Hernandez and Cindy Calderon v. City of San José, et al. Names of Parties Involved: Luis Hernandez, Cindy Calderon, City of San José, Ernie Alcantar, individually and in his official capacity as Captain, SJPd and James Werkema, individually and in his official capacity as Lieutenant, SJPd. Court: United States District Court, Northern District of California, San José Division; Case No: CV12-02952 HRL. Amount of Money or Other Relief Sought: Damages according to proof. (42) Yanira Hernandez v. City, Geoffrey Evatt Graves, et al. Names of Parties Involved: City of San José, Geoffrey Evatt Graves, Does 1-50; Court: Superior Court of California, County of Santa Clara; Case No: 114CV270467; Amount of Money or Other Relief Sought: Damages according to proof. (43) Kerkeles v. City of San José, et al. Names of Parties Involved: Michael Kerkeles, aka Michael Kerk, City of San José, Matthew Christian and Does 1-25; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV103523; Amount of Money or Other Relief Sought: Damages according to proof. (44) Hung Lam v. City of San José, et al. Names of Parties Involved: Hung Lam, individually, through his next friend, Kathy Lam, City of San José, a municipal

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corporation, Larry Esquivel, in his capacity as Chief of Police for the City of San José, Dondi West, individually and in her official position. Court: United States District Court, Northern District of California, San José Division; Case No: 14-CV-00877-PSG. Amount of Money or Other Relief Sought: Damages according to proof. (45) Eliel Paulino v. Marco Cruz, et al. v. City of San José, et al. Names of Parties Involved: Eliel Paulino, Marco Cruz, individually and as an Officer of the San José Police Department, Gerardo Silva, individually and as an Officer of the San José Police Department, Gurbaksh Sohal, individually and as an Officer of the San José Police Department and Does 1-10. Court: United States District Court, Northern District of California, San José Division; Case No: CV 16-2642 NC; Amount of Money or Other Relief Sought: Damages according to proof. (46) JoAnn Rice, American Savin, et al. v. City et al. Names of Parties Involved: JoAnn Rice, America Savin, Perry Nelson, W.N., a minor, by and through his Guardian and Litem, American Savin, City of San José, San José Police Department, Does 1-10; Court: United States District Court; Case No: 2:13-CV-00334-KJM-CKD; Amount of Money or Other Relief Sought: Damages according to proof. (47) Lori Rodriguez v. City of San José. Names of Parties Involved: Lori Rodriguez, City of San José, Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-241669; Amount of Money or Other Relief Sought: Damages according to proof. (48) Sutter's Place, Inc. dba Bay 101 v. City of San José. Names of Parties Involved: Sutter's Place, Inc. dba Bay 101, City of San José, the Division of Gaming Control. Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-258057; Amount of Money or Other Relief Sought: Damages according to proof. (49) Sharon Watkins, et al. v. City of San José, et al. Names of Parties Involved: Sharon Watkins, Sylvia Buchanan, Deviny Buchanan, on her own behalf and on behalf of her minor child Laniyah Watkins, City of San José, San José Police Officer Ryan Dote and San José Police Officer James Soh; Court: United States District Court, Northern District of California, San José Division; Case No: 15-CV-05786-LHK; Amount of Money or Other Relief Sought: Damages according to proof. (50) Lee Darnell Watson v. City of San José, Matthew Bracket, Ryan Hansen, Ronald Hughes and Does 1-10. Court: United States District Court, Northern District of California, San José Division; Case No: 15-CV-04054-NC; Amount of Money or Other Relief Sought: Damages according to proof. (51) Camacho v. Yvonne CSJ, et al. Names of Parties Involved: Carolina Camacho, individually and as Successor in Interest to Jessenia Camacho-Torres, deceased, the City of San José, Amy M. Dorr, Sarah R. Cox; Court: Superior Court of California, County of Santa Clara; Court of Appeal of the State of California, Sixth Appellate District; Case No: No. H041762; Amount of Money or Other Relief Sought: Damages According to Proof. (52) Herrera, et al. v. City, et al. Names of Parties Involved: Martha Herrera, Michelle Rodriguez, Jessica Rodriguez, Minors, By and Through Their Guardian Ad Litem Martha Herrera, City of San José, John Doe, John Doe Company, et al; Court: Superior Court of California, County of Santa Clara; Case No: 1-10-CV-165689; Amount of Money or Other Relief Sought: Damages According to Proof. (53) City of San José v. CSAA Insurance Exchange. Names of Parties Involved: City of San José, CSAA Insurance Exchange and Does 1-10; Court: Superior Court of California, County of Santa Clara, Unlimited Jurisdiction; Case No: 1-15-CV-284966; Amount of Money or Other Relief Sought:

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Damages According to Proof. (54) Deanna Smith and Johnny Garcia v. City of San José, Santa Clara Valley Transportation Authority, et al. Names of Parties Involved: Deanna Smith, Johnny Garcia, City of San José, a public entity, Santa Clara Valley Transportation Authority, a public entity, Union Pacific Railroad Company, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-271771; Amount of Money or Other Relief Sought: Damages According to Proof. (55) Ilidio Avila, Angelina Avila, Sonny Avila, a minor, Dominic Avila, a minor, Jovina Avila, a minor v. Oscar Chacon, Mayra Ortega, Blanca Martinez, City of San José. Names of Parties Involved: Ilidio Avila, Angelina Avila, Sonny Avila, a minor, Dominic Avila, a minor, Jovina Avila, a minor v. Oscar Chacon, Mayra Ortega, Blanca Martinez, City of San José, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-245894; Amount of Money or Other Relief Sought: Damages According to Proof. (56) Lisa Blevins v. City of San José. Names of Parties Involved: Lisa Blevins, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV270060; Amount of Money or Other Relief Sought: Damages According to Proof. (57) City of San José v. County of Santa Clara. Names of Parties Involved: City of San José, a municipal corporation, as Successor Agency to the Redevelopment Agency of the City of San José, Vinod K. Sharma, individually, and in his official capacity as Santa Clara County Director of Finance, County of Santa Clara; Court: Superior Court of California, County of Santa Clara; Case No: 34-2012-80001190; Amount of Money or Other Relief Sought: Damages According to Proof. (58) City of San José v. First Serve Productions. Names of Parties Involved: City of San José, First Serve Productions, Inc.; Court: Superior Court of California, County of San Mateo; Case No: CIV536836; Amount of Money or Other Relief Sought: Damages According to Proof. (59) Ted Smith v. City, et al. Names of Parties Involved: Ted Smith, City of San José, a municipal entity, San José Redevelopment Agency, a municipal entity, Harry Mavrogenes, in his official capacity as Executive Director of the San José Redevelopment Agency, Mayor Chuck Reed, in his official capacity as Mayor of the City of San José, Pete Constant, in his official capacity as a Council Member for the City of San José, Ash Kalra, in his official capacity as a Council Member for the City of San José, Sam Liccardo, in his official capacity as a Council Member for the City of San José, Pierluigi Oliverio, in his official capacity as a Council Member for the City of San José, Madison Nguyen, in her official capacity as a Council Member for the City of San José, Rose Herrera, in her official capacity as a Council Member for the City of San José, Judy Chirco, in her official capacity as a Council Member for the City of San José, Kansen Chu, in his official capacity as a Council Member for the City of San José, Nora Campos, in her official capacity as a Council Member for the City of San José, Nancy Pyle, in her official capacity as a Council Member for the City of San José, Does 1-20; Court: Superior Court of California, County of Santa Clara; Case No: 1-09-CV-150427; Amount of Money or Other Relief Sought: Damages According to Proof. (60) Vietnamese-American Community of Northern California v. City, et al. Names of Parties Involved: Vietnamese-American Community of Northern California, City of San José, City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-08-CV-107082; Amount of Money or Other Relief Sought: For declaratory and injunctive relief according to proof. (61) Raymond and Michelle Plata v. City of San José. Names of Parties Involved:

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Raymond and Michelle Plata, individually and on behalf of other members of a class of similarly situated residents and taxpayers, City of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-258879; Amount of Money or Other Relief Sought: Declaratory Relief, Injunctive Relief. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Contract or Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (SJPOA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

CLOSED SESSION (Cont'd.)

By unanimous consent, Council recessed from the Closed Session at 11:02 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chamber.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, M. Nguyen, T. Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

INVOCATION

Esther Peralez-Dieckmann, Director of the Santa Clara County Office of Women's Policy offered the Invocation. (District 9)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo, accompanied by Third Grade Students, Lynhaven Elementary, led the Pledge of Allegiance.

ORDERS OF THE DAY

Heard following the Ceremonial items.

Motion: Council Member Johnny Khamis moved approval to drop Item 3.4, Accept Recommended City Positions on the November 8, 2016 California General Election Ballot on Propositions 15 through 67. Council Member Pierluigi Oliverio seconded the motion.

Substitute Motion: Vice Mayor Rose Herrera moved approval to hear Item 3.4 last on the Agenda, with a four-minute time limit total for each Council Member. Council Member Ash Kalra seconded the motion.

Council discussion ensued.

On a call for the question, the substitute motion carried, the Orders of the Day and the Amended Agenda were approved, with Item 4.1 heard after the Consent Calendar and Item 3.4 heard last, which included a four-minute total time limit for each Council Member to speak. (10-1. Noes: Khamis.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to JEWL, an oral history and learning institution in collaboration with Evergreen Valley College, for their efforts in collecting and preserving African American social progress and history. (Herrera)**

Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended JEWL for their efforts in collecting and preserving African American social progress and history.

- 1.2 Presentation of a proclamation recognizing the month of October as Urban Design Month in the City of San José. (Perez)**

Mayor Sam Liccardo and Council Member Raul Perez recognized the month of October as "Urban Design Month" in the City of San José.

- 1.3 Presentation of a proclamation recognizing October 16-22, 2016 as National Retirement Security Week in the City of San José. (Khamis)**

Mayor Sam Liccardo and Council Member Johnny Khamis recognized October 16 through October 22, 2016 as "National Retirement Security Week" in San José.

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Magdalena Carrasco and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0)

- 2.1 Approval of City Council Minutes.**

There were none.

- 2.2 Final adoption of ordinances.**

- (a) **ORD. NO. 29788 – An ordinance of the City of San José rezoning certain real property of approximately 5 acres, situated on the northeast side of San Felipe Road at the northeastern terminus of Silver Creek Road (7010 San Felipe Road), from the A Agricultural Zoning District to the R-1-1 Single-Family Residence Zoning. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29788 executed on September 23, 2016, submitted by the City Clerk.

Action: Ordinance No. 29788 was adopted. (11-0.)

- 2.2 (b) **ORD. NO. 29789** – An ordinance of the City of San José adding Chapter 14.34 to Title 14 of the San José Municipal Code adopting a traffic impact fee on new development within the interstate 280/Winchester Boulevard Transportation Development Policy Area. CEQA: Environmental Impact Report for the Santana West Development Project and I-280-Winchester Transportation Development Policy. (Planning, Building and Code Enforcement)

Action: Deferred to October 18, 2016.

- (c) **ORD. NO. 29790** – An ordinance of the City of San José rezoning certain real property of approximately 12.99 gross acres situated on the northwesterly corner of Olsen Drive and Winchester Boulevard (3161, 6162, 6164 Olsen Drive and 449 South Winchester Boulevard) from the CG Commercial General Zoning District to the CP(PD) Planned Development Zoning District. CEQA: Environmental Impact Report for the Santana West Development Project and I-280-Winchester Transportation Development Policy. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29790 executed on September 23, 2016, submitted by the City Clerk.

Action: Ordinance No. 29790 was adopted. (11-0.) (First Reading: 8-2-1. Noes: Kalra, Rocha.)

- (d) **ORD. NO. 29791** – An ordinance of the City of San José rezoning certain real property of approximately 0.63 gross acre situated on the northeasterly corner of East Santa Clara Street and North 11th Street (505, 509, 525 East Santa Clara Street) from the R-M Multi-Family Residence and CG Commercial General Zoning Districts to the CP(PD) Commercial Pedestrian Planned Development Zoning District. CEQA: North 11th Street and East Santa Clara Street Student Housing Project Mitigated Negative Declaration. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29791 executed on September 23, 2016, submitted by the City Clerk.

Action: Ordinance No. 29791 was adopted. (11-0.)

- (e) **ORD. NO. 29792** – An ordinance of the City of San José amending Chapter 12.06 of Title 12 of the San José Municipal Code to amend Section 12.06.810 and to add a new Part 11 to limit contributions by individuals to a candidate legal defense fund. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making Municipal Code or Policy, Title 12. (City Attorney)

2.2 (e) (Cont'd.)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29792 executed on September 30, 2016, submitted by the City Clerk.

Action: Ordinance No. 29792 was adopted. (11-0.)

- (f) ORD. NO. 29793 – An ordinance of the City of San José amending Chapter 12.06 of Title 12 of the San José Municipal Code to add Section 12.06.175 and amend Sections 12.06.050, 12.06.210, 12.06.290, 12.06.610, 12.06.720, and 12.06.910 related to elections and municipal campaign and officeholder contributions. CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making Municipal Code or Policy, Title 12. (City Attorney)**

Documents Filed: Proof of Publication of the Title of Ordinance No. 29793 executed on September 30, 2016, submitted by the City Clerk.

Action: Ordinance No. 29793 was adopted. (11-0.)

2.3 Approval of Council Committee Minutes.

- (a) Transportation and Environment Committee Minutes of September 12, 2016. (Kalra)**
- (b) Rules and Open Government Committee Minutes of September 14, 2016. (Mayor)**
- (c) Public Safety, Finance, and Strategic Support Committee Minutes of September 15, 2016. (Oliverio)**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: (1) The Transportation and Environment Committee Minutes dated September 12, 2016. (2) The Rules and Open Government Committee Minutes dated September 14, 2016. (3) The Public Safety, Finance and Strategic Support Committee Minutes dated September 15, 2016.

Action: The Council Committee Minutes were approved. (11-0.)

2.4 Request for an excused absence for Vice Mayor Herrera from the Rules and Open Government Committee meeting on October 5, 2016 due to Authorized City Business. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Herrera)

Action: The absence for Vice Mayor Rose Herrera was excused. (11-0.)

2.5 City Council Travel Reports.

No Report.

2.6 Report from the Council Liaison to the Retirement Boards.

No Report.

- 2.7 (a) Adopt an ordinance ratifying final 2015-2016 expenditures in various appropriations as detailed in this report.
- (b) Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:
- (1) Increase the Earned Revenue estimate by \$4,911,206.
 - (2) Increase the Needs-Based Allocation Transfer to District 1 by \$270,314.
 - (3) Increase the Needs-Based Allocation Transfer to District 2 by \$207,579.
 - (4) Increase the Needs-Based Allocation Transfer to District 3 by \$327,494.
 - (5) Increase the Needs-Based Allocation Transfer to District 4 by \$209,097.
 - (6) Increase the Needs-Based Allocation Transfer to District 5 by \$341,947.
 - (7) Increase the Needs-Based Allocation Transfer to District 6 by \$337,757.
 - (8) Increase the Needs-Based Allocation Transfer to District 7 by \$366,300.
 - (9) Increase the Needs-Based Allocation Transfer to District 8 by \$219,726.
 - (10) Increase the Needs-Based Allocation Transfer to District 9 by \$316,288.
 - (11) Increase the Needs-Based Allocation Transfer to District 10 by \$196,739.
 - (12) Increase the Transfer to the Parks City-Wide Construction and Conveyance Tax Fund by \$1,396,119.
 - (13) Increase the Transfer to the General Fund – Parks Eligible Maintenance Costs by \$721,846.
- (c) Adopt the following 2015-2016 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:
- (1) Increase the Earned Revenue estimate by \$10,742; and
 - (2) Increase the Transfer to the Park Yards Operating and Maintenance Expenses appropriation by \$10,742.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Manager)

Documents Filed: Memorandum from Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated September 21, 2016, recommending adoption of an ordinance and appropriation ordinances and funding sources resolution amendments.

Action: Ordinance No. 29795, entitled: “An Ordinance of the City of San José Authorizing Ratifying Certain Encumbrances and/or Expenditures in Various Funds Made During City’s 2015-2016 Fiscal Year in Excess of Sums Appropriated Therefore”; Ordinance No. 29796, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund for the Needs Based Allocation Transfers to Council Districts one through Ten, The Transfer to the Parks Citywide Construction and Conveyance Tax Fund and the Transfer to the General Fund – Parks Eligible Maintenance Costs; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; Resolution No. 77945, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77423 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2015-2016 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks

2.7 (Action Cont'd.)

Purposes Central Fund”, Ordinance No. 29797, entitled: “An Ordinance of the City of San José Amending Ordinance No. 29589 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes for the General Fund – Parks Operating and Maintenance Expenses; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 77946, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77423 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2015-2016 to Adjust Revenues in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes”, were adopted. (11-0.)

2.8 As recommended by the Rules and Open Government Committee on September 21, 2016:

- (a) Adopt a resolution supporting the Muwekma Ohlone Tribe in their ongoing pursuit of status as a Federally Recognized Tribe and direct staff to provide support to our state legislators as they pursue the process to federally recognize the Muwekma Ohlone Tribe.**
- (b) Direct the City Manager to draft and execute a letter transmitting the resolution to the appropriate party.**

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Herrera/Carrasco)

[Rules Committee referral 9/21/16 – Item G.3(a)(c)]

Council Member Pierluigi Oliverio requested that this item be deferred in order for the City Attorney to return with information pertaining to obtaining a potential petition for an Indian Casino in the City of San José.

Council discussion ensued.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Ash Kalra and carried unanimously, Item 2.8 was deferred to October 18, 2016. Staff was directed to return with information pertaining to obtaining a potential petition for an Indian Casino in the City of San José. (11-0.)

2.9 As recommended by the Rules and Open Government Committee on September 14, 2016:

- (a) Retroactively approve the Ethiopian Flag Raising Ceremony held on September 9, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Mayor)

[Rules Committee referral 9/14/16 – Item G.1.b.]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 22, 2016, transmitting the recommendations of the Rules and Open Government Committee.

2.9 (Cont'd.)

Action: The Ethiopian Flag Raising Ceremony held on September 9, 2016 as a City Council sponsored Special Event and the expenditure of funds were retroactively approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

- 2.10 (a) Approve an updated Master Agreement with the California Department of Transportation for federal-aid transportation projects.**
(b) Adopt a resolution authorizing the City Manager to negotiate and execute any program supplements to the Master Agreement enabling the City to receive federal-aid funds for qualifying transportation projects.

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (Transportation)

Documents Filed: City Council Action Request from Director of Transportation James Ortbal, dated September 26, 2016, recommending approval of an updated Master Agreement and adoption of a resolution.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Blair Beekman expressed comments pertaining to the Master Agreement with the California Department of Transportation.

Action: Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, an updated Master Agreement with the California Department of Transportation for federal-aid transportation projects was approved and Resolution No. 77947, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Any Program Supplements to the Master Agreement With Caltrans for Federal Aid Transportation Programs Enabling the City to Receive Federal Aid Funds for Qualifying Transportation Projects", was adopted. (11-0.)

- 2.11 Authorize international travel to Santiago, Chile, for Jo Zientek, Deputy Director, Environmental Services Department, as the City Manager's designated representative to the AmCham Seminar on October 12, 2016. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities, Travel. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow, dated September 26, 2016, requesting authorization for international travel.

Action: International travel to Santiago, Chile, for Jo Zientek, Deputy Director, Environmental Services Department, as the City Manager's designated representative to the AmCham Seminar on October 12, 2016, was approved. (11-0.)

2.12 As recommended by the Rules and Open Government Committee on September 28, 2016:

- (a) Approve the Hungarian Flag Raising Ceremony on Friday, October 21, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Khamis)
[Rules Committee referral 9/28/16 – Item G.1.a]**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated September 30, 2016, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Hungarian Flag Raising Ceremony on Friday, October 21, 2016 as a City Council sponsored Special Event and the expenditure of funds were approved and acceptance of donations from various individuals, businesses or community groups to support the event was authorized. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.3 Adopt a resolution to approve the terms of a side letter agreement between the City and its bargaining units on retiree healthcare providing that the lowest cost plan for any current or future eligible retiree in the defined benefit retiree healthcare plan shall be permanently set such that it may not be lower or higher than the “Silver” level as specified by the current Affordable Healthcare Act (ACA) in effect in July 2015. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager)**

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated September 20, 2016, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, Resolution No. 77949, entitled: “A Resolution of the Council of the City of San José Approving the Terms of Agreement Between the City of San José and Its Bargaining Units Regarding the Parameters of the Lowest Cost Plan Associated With the Defined Benefit Retiree Healthcare Benefit”, was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) Approve an ordinance amending Chapter 4.46 of Title 4 of the San José Municipal Code and Chapter 4.47 of Title 4 of the San José Municipal Code to add sections to suspend the collection of the Building and Structure Construction Tax and the Commercial Residential Mobile Home Park Construction Tax (also referred to as the Construction Excise Tax) for the first commercial, non-hotel, high rise development project that secures its first building permit prior to May 31, 2017 in Downtown.
- (b) (1) Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Project Completion Agreement with Trammell Crow Company in which the City will suspend the collection of the Building and Structure Construction Tax and the Commercial Residential Mobile Home Park Construction Tax (also referred to as the Construction Excise Tax) for the construction of 1 million square feet of office/retail development in Downtown San José subject to Trammell Crow Company being eligible for the tax suspension.
- (2) Conduct a Public Hearing regarding an economic subsidy estimated value not to exceed \$4 million in connection with a Project Completion Agreement with Trammell Crow Company if all conditions of receiving the tax suspension are satisfied, pursuant to California Government Code Section 53083.

CEQA: Not a Project, File No. PP10-068(c), General Procedure & Policy Making that involve no changes in the physical environment; File No. PDC15-051, Delmas Avenue Mixed-Use Development, Addendum to the Final EIR for the San José Water Land Company Planned Development Rezoning, Downtown Strategy 2000 FPEIR, Envision 2040 General Plan FPEDIR and SEIR. (Economic Development)
[Deferred from 9/27/16 – Item 4.2]

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Raul Peralez, Council Member Pierluigi Oliverio and Council Member Johnny Khamis, dated September 30, 2016, recommending approval of the recommendations outlined in the September 22, 2016 Staff Report and Item (b)(1)(2) as it pertains to a Project Completion Agreement with Trammell Crow Company. (2) Memorandum from Deputy City Manager/Director of Economic Development Kim Walesh, dated September 22, 2016, recommending approval of an ordinance, adoption of a resolution and conducting a public hearing.

Assistant Director of Economic Development Nanci J. Klein presented background information.

Motion: Council Member Raul Peralez moved approval of the memorandum he cosigned with Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Pierluigi Oliverio and Council Member Johnny Khamis. Vice Mayor Rose Herrera seconded the motion.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

4.1 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Raul Peralez, Council Member Pierluigi Oliverio and Council Member Johnny Khamis, dated September 30, 2016, was approved, approving the recommendations outlined in the September 22, 2016 Staff Report, and in particular, Item (b)(1) and (b)(2) as it pertains to a Project Completion Agreement with Trammell Crow Company. Ordinance No. 29798, entitled: "An Ordinance of the City of San José Amending Chapters 4.46 and 4.47 of Title 4 of the San José Municipal Code To Suspend the Collection of the Building and Structure Construction Tax and the Commercial Residential Mobilehome Park Building Tax on One Downtown Commercial High Rise Project", was passed for publication and Resolution No. 77948, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager or Designee to Negotiate and Execute a Project Completion Agreement With Trammel Crow Company In Which the City Will Suspend the Collection of the Building and Structure Construction Tax and the Commercial Residential Mobilehome Park Building Tax for the Construction of One Million Square Feet of Office/Retail Development in Downtown San José, Subject to Trammell Crow Company Being Eligible for the Tax Suspension", was adopted. (10-0-1. Absent: Kalra.)

- 4.2 (a) **Approve a refund of construction taxes in the amount of \$67,838.89 to OPI Commercial Builders for a project located at 3901 N. 1st Street.**
- (b) **Adopt the following 2016-2017 Appropriation Ordinance Amendments in the Building and Structure Construction Tax Fund:**
- (1) **Establish a Developer Refunds appropriation to the Planning, Building and Code Enforcement Department in the amount of \$9,692.**
 - (2) **Decrease the Ending Fund Balance by \$9,692.**
- (c) **Adopt the following 2016-2017 Appropriation Ordinance Amendments in the Construction Excise Tax Fund:**
- (1) **Establish a Developer Refunds appropriation to the Planning, Building and Code Enforcement Department in the amount of \$58,148.**
 - (2) **Decrease the Ending Fund Balance by \$58,148.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Planning, Building and Code Enforcement/City Manager)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Manh Nguyen, Council Member Raul Peralez and Council Member Johnny Khamis, dated September 30, 2016, as described in "Action" on Page 20. (2) Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated September 23, 2016, recommending as described above in Item 4.2(a)-(c).

Motion: Vice Mayor Rose Herrera moved approval of the memorandum she cosigned with Mayor Sam Liccardo, Council Member Manh Nguyen, Council Member Raul Peralez and Council Member Johnny Khamis. Council Member Manh Nguyen seconded the motion.

4.2 (Cont'd.)

City Manager Norberto Dueñas requested to amend the motion to add direction to the City Manager to provide bi-annual reports for the actions taken today. The amendment was accepted by Vice Mayor Rose Herrera and Council Member Manh Nguyen.

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Manh Nguyen, Council Member Raul Peralez and Council Member Johnny Khamis, dated September 30, 2016, was approved, approving the recommendations outlined in the Staff Reports for Item 4.2 and Item 4.3 on the October 4, 2016 Agenda, regarding refunds of construction taxes to OPI Commercial Builders and Skyline Construction, with the following direction: Staff was directed to return to Council with an ordinance granting the City Manager authority to approve all refunds, with the written approval of the City Attorney, where the calculation of the refund amount is addressed by the application of the Municipal Code. Ordinance No. 29799, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29262 to Appropriate Monies in the Building and Structure Construction Tax Fund for Developer Refunds; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Ordinance No. 29800, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29262 to Appropriate Monies in the Construction Excise Tax Fund for Developer Refunds; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

- 4.3 (a) **Approve a refund of construction taxes in the amount of \$84,616.79 paid based on an incorrect data entry to Skyline Construction, Inc. for a project located at 441 W. Trimble Road.**
- (b) **Adopt the following 2016-2017 Appropriation Ordinance Amendments in the Building and Structure Construction Tax Fund:**
- (1) **Increase the Developer Refunds appropriation to the Planning, Building and Code Enforcement Department in the amount of \$28,007.**
 - (2) **Decrease the Ending Fund Balance by \$28,007.**
- (c) **Adopt the following 2016-2017 Appropriation Ordinance Amendments in the Construction Excise Tax Fund:**
- (1) **Increase the Developer Refunds appropriation to the Planning, Building and Code Enforcement Department in the amount of \$56,013.**
 - (2) **Decrease the Ending Fund Balance by \$56,013.**

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Planning, Building and Code Enforcement/City Manager)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Harry Freitas and Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated September 23, 2016, recommending as described previously in Item 4.3(a)-(c).

4.3 (Cont'd.)

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Raul Peralez and carried unanimously, a refund of construction taxes in the amount of \$84,616.79 paid based on an incorrect data entry to Skyline Construction, Inc. for a project located at 441 W. Trimble Road was approved. Ordinance No. 29801, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29262 to Appropriate Monies in the Building and Structure Construction Tax Fund for Developer Refunds; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption" and Ordinance No. 29802, entitled: "An Ordinance of the City of San José Amending Ordinance No. 29262 to Appropriate Monies in the Construction Excise Tax Fund for Developer Refunds; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. (11-0.)

PUBLIC SAFETY SERVICES

- 8.1 (a) **Review and discuss San José Police Department overall sworn staffing levels and discussion of options to address the unprecedented low sworn staffing levels in the Patrol Division. (Police)**
- (b) **Accept the report on the results of exploring the use of the California Highway Patrol and/or Santa Clara County Sheriff's Office to augment the San José Police Department. (Police)**
- (c) **Accept the audit on Police Overtime. (Auditor)**

CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Staff Reports that involve no approval of City Actions and Personnel Related Decisions.

Documents Filed: (1) Memorandum from Chief of Police Edgardo Garcia, dated September 27, 2016, recommending reviewing and discussing the San José Police Department overall sworn staffing levels and discussion of options to address the unprecedented low sworn staffing levels in the Patrol Division. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated September 22, 2016, transmitting the recommendations of the Public Safety, Finance and Strategic Support Committee. (3) Staff presentation dated October 4, 2016 describing the Police Department Staffing. (4) Letter from Laurie Smith, Sheriff, dated August 29, 2016, declining to provide more resources but willing to abide by their commitment to provide mutual aid assistance if the City of San José meets the criteria to call for mutual aid and submits a formal mutual aid request.

Mayor Sam Liccardo presented introductory remarks.

Chief of Police Edgardo Garcia and Deputy Chief of Police Michael Knox offered the report on the San José Police Department Sworn Staffing. City Auditor Sharon W. Erickson presented the Audit on the Police Overtime.

Council discussion ensued.

8.1 (Cont'd.)

Motion: Council Member Raul Peralez moved approval to accept the reports. Vice Mayor Rose Herrera seconded the motion.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Dave Truslow and Harbinder Sikka expressed comments concerning the reports.

Action: On a call for the question, the motion carried, the report on the results of exploring the use of the California Highway Patrol and/or Santa Clara County Sheriff's Office to augment the San José Police Department and the audit on Police Overtime from the Office of the City Auditor were accepted. (10-1. Noes: Oliverio.)

STRATEGIC SUPPORT SERVICES

- 3.4 As recommended by the Rules and Open Government Committee on September 28, 2016, approve the recommended City positions for Propositions 51-67, on the November 8, 2016 California General Election ballot.

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated September 30, 2016, transmitting the recommendations of the Rules and Open Government Committee. (2) Ballot tally dated October 4, 2016 concerning the votes taken by the Mayor and Council Members.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing comments pertaining to the Ballot recommendations were Dave Truslow, Lauren Boyd, Silicon Valley Leadership Group; Mimosa, Free Speech Coalition; Carol Baker, American Cancer Society and Nick Bonovich.

- (a) **Propositions – Recommended City Position is to Oppose**
(1) **Proposition 53 – Revenue Bonds. Statewide Voter Approval Initiative Constitutional Amendment.**

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Ash Kalra and carried, an oppose position for Proposition 53 was approved. (6-2-3. Noes: M. Nguyen, T. Nguyen. Absent: Khamis, Oliverio. Rocha)

- (b) **Propositions – Recommended City Position is to Support**
(1) **Proposition 54 – Legislature, Legislation and Proceedings Initiative Constitutional Amendment and Statute.**
(2) **Proposition 55 – Tax Extension to Fund Education and Healthcare Initiative Constitutional Amendment.**
(3) **Proposition 58 – English Proficiency. Multilingual Education (SB 1174, Chapter 753 Statutes of 2014).**

- 3.4 (b) (4) **Proposition 59 – Corporations. Political Spending. Federal Constitutional Protections (SB 254, Chapter 20, Statutes of 2016).**
(5) **Proposition 63 – Firearms. Ammunition Sales Initiative Statute.**
(6) **Proposition 67 – Referendum to Overturn Ban on Single-Use Plastic Bags.**

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Ash Kalra and carried, support positions for Propositions 54, 55, 58, 59, 63 and 67 were approved. (6-2-3. Noes: M. Nguyen, T. Nguyen. Absent: Khamis, Oliverio, Rocha)

- (c) **Propositions – Recommend City Position is to take no Position.**

Note: All Items on (c) were voted on separately. The Council voted verbally.

- (1) **Proposition 51 – School Bonds. Funding for K-12 School and Community College Facilities Initiative Statutory Amendment.**

Motion: Council Member Ash Kalra moved approval for a support position for Proposition 51. Council Member Raul Peralez seconded the motion.

Mayor Sam Liccardo and Council Member Tam Nguyen expressed opposition.

Council Member Tam Nguyen requested that Council vote verbally on all the propositions. Council Member Ash Kalra and Council Member Raul Peralez accepted the amendment.

On a call for the question, the motion failed. (3-2-4-2. Noes: M. Nguyen; Liccardo. Absent: Herrera, Khamis, Oliverio, Rocha. Abstain: Jones, T. Nguyen.)

Action: No position was taken on Proposition 51.

- (2) **Proposition 52 – Medi-Cal Hospital Fee Program Initiative Statutory and Constitutional Amendment.**

No position was taken on Proposition 52.

- (3) **Proposition 56 – Cigarette Tax to Fund Healthcare. Tobacco Use Prevention, Research, and Law Enforcement Initiative Constitutional Amendment and Statute.**

Action: Upon motion by Council Member Ash Kalra, seconded by Council Member Tam Nguyen and carried unanimously, a support position for Proposition 56 was approved. (7-0-4. Absent: Herrera, Khamis, Oliverio, Rocha.)

3.4 (c) (4) Proposition 57 – Criminal Sentences. Parole, Juvenile Criminal Proceedings and Sentencing Initiative Constitutional Amendment and Statute.

Motion: Council Member Ash Kalra moved approval for a support position for Proposition 57. Council Member Raul Perez seconded the motion.

On a call for the question, the motion failed. (5-1-4-1. Noes: Liccardo. Absent: Herrera, Khamis, Oliverio, Rocha. Abstain: Jones.)

Action: No position taken on Proposition 57.

(5) Proposition 60 – Adult Films. Condoms. Health Requirements Initiative Statute

(6) Proposition 61 – State Prescription Drug Purchases. Pricing Standards. Initiative Statute

There were no positions taken for Propositions 60 and 61.

(8) Proposition 64 – Marijuana Legalization Initiative Statute

Motion: Council Member Tam Nguyen moved approval for an oppose position on Proposition 64. Mayor Sam Liccardo seconded the motion.

Council Member Tam Nguyen withdrew his motion.

No position taken on Proposition 64.

(7) Proposition 62 – Death Penalty Initiative Statute

(10) Proposition 66 – Death Penalty. Procedures. Initiative Statute

Action: Upon motion by Council Member Ash Kalra, seconded by Council Member Tam Nguyen and carried unanimously, a support position for Propositions 62 and 66 were approved. (7-0-4. Absent: Herrera, Khamis, Oliverio, Rocha.)

(9) Proposition 65 – Carryout Bags. Charges Initiative Statute

Action: Upon motion by Council Member Ash Kalra, seconded by Council Member Manh Nguyen and carried unanimously, an oppose position for Proposition 65 was approved. (7-0-4. Absent: Herrera, Khamis, Oliverio, Rocha.)

CEQA: Not a Project, File NO. PP10-069(d), City Administrative Activities, Legislative Position. (City Manager)

[Rules Committee referral 9/28/16 – Item G.2.]

OPEN FORUM

- (1) Judy Bender informed the Council about issues at the Southside Senior Center and complained that there was no money available for coffee for the Seniors at the Willows Senior Center.

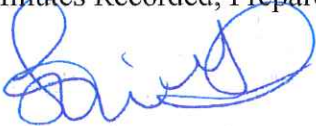
Mayor Sam Liccardo explained to Ms. Bender that the City Manager was aware of the current issues at the Senior Centers.

- (2) Blair Beekman opined about the League of California Cities, the Resolution Process, transparency and openness.

ADJOURNMENT

The Council of the City of San José was adjourned at 5:52 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC
City Clerk

smd/10-04-16 MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjosca.gov/city> or <http://www.sanjosca.gov/civiccenter.tv>. For information on any ordinance that is not hyperlinked to this document, please contact the Office of the City Clerk at (408) 535-1266.